

NOTICE OF PROPOSED CHANGES IN REGULATIONS OF THE
CALIFORNIA DEPARTMENT OF SOCIAL SERVICES (CDSS)

ITEM # 3 Adult Programs - Protective Supervision and Variable Assessments

CDSS hereby gives notice of the proposed regulatory action(s) described below. Any person interested may present statements or arguments orally or in writing relevant to the proposed regulations at a public hearing to be held August 16, 2006, as follows:

August 16, 2006
Office Building # 9
744 P St. Auditorium
Sacramento, California

The public hearing will convene at 10:00 a.m. and will remain open only as long as attendees are presenting testimony. The Department will adjourn the hearing immediately following the completion of testimony presentations. The above-referenced facility is accessible to persons with disabilities. If you are in need of a language interpreter at the hearing (including sign language), please notify the Department at least two weeks prior to the hearing.

Statements or arguments relating to the proposals may also be submitted in writing, e-mail, or by facsimile to the address/number listed below. All comments must be received by 5:00 p.m. on August 16, 2006.

CDSS, upon its own motion or at the instance of any interested party, may adopt the proposals substantially as described or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of nonsubstantive, technical, or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption to all persons who testify or submit written comments during the public comment period, and all persons who request notification. Please address requests for regulations as modified to the agency representative identified below.

Copies of the express terms of the proposed regulations and the Initial Statement of Reasons are available from the office listed below. This notice, the Initial Statement of Reasons and the text of the proposed regulations are available on the internet at <http://www.dss.cahwnet.gov/ord>. Additionally, all the information which the Department considered as the basis for these proposed regulations (i.e., rulemaking file) is available for public reading/perusal at the address listed below.

Following the public hearing, copies of the Final Statement of Reasons will be available from the office listed below.

CONTACT: Office of Regulations Development
California Department of Social Services
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CHAPTERS

CDSS Manual of Policies and Procedures, Division 30 (Social Services Standards), Chapter 30-700 (Service Program No. 7: In-Home Supportive Services), Sections 30-757 (Program Content) and 30-761 (Needs Assessment Standards).

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing regulations provide for the county-administered In-Home Supportive Services (IHSS) program, under which qualified aged, blind, and disabled persons are provided with services in order to permit them to remain in their own homes and avoid institutionalization. Existing regulations permit services to be provided under the IHSS program either through the employment of individual providers, a contract between the county and an entity for the provision of services, the creation by the county of a public authority, or a contract between the county and a nonprofit consortium.

Budget Trailer Bill, SB 1104 (Chapter 229, Statutes of 2004) amended Welfare and Institutions Code Section 12301.1 to add 12301.1(c) which authorizes variable intervals for reassessments by county welfare departments. This legislation also adopted Welfare and Institutions Code Section 12301.21 which requires the use of a standard statewide form to obtain medical certification for a person's need for protective supervision. Also, Welfare and Institutions Code Section 12300(b) authorizes protective supervision in IHSS. These proposed regulations implement and make specific the terms of these statutes.

As authorized by Welfare and Institutions Code Section 12301(c), the proposed regulations provide the option for county welfare departments to extend the reassessment period for up to 6 months beyond the 12-month period if certain conditions are met that ensure the recipients' needs are not likely to change during the extended period and who would not be put at risk by extending the reassessment period. The statute also requires county welfare departments to reassess needs, as necessary, when they are notified that the recipient's needs have changed. This is a change from current regulations that require county welfare departments to conduct reassessments for supportive services' needs as necessary, but at least once every 12 months.

As mandated by Welfare and Institutions Code Section 12301.21, the proposed regulations also require the development and use of a statewide standardized form to obtain medical certification for protective supervision needs and identify when and how the certification submitted shall be considered in the determination of a person's need for protective supervision. Current regulations do not require the use of a statewide standardized form.

COST ESTIMATE

1. Costs or Savings to State Agencies: Additional expenditures of approximately \$10.2 million in the current State Fiscal Year. It is anticipated that State agencies will be able to absorb these additional costs within their existing budgets and resources.
2. Costs to Local Agencies or School Districts: None.
3. Nondiscretionary Costs or Savings to Local Agencies: Additional expenditures of approximately \$4.4 million in the current State Fiscal Year.
4. Federal Funding to State Agencies: Additional expenditures of approximately \$13.8 million in the current State Fiscal Year.

LOCAL MANDATE STATEMENT

These regulations do impose a mandate upon local agencies, but not on school districts. If the Commission on State Mandates determines that these regulations contain reimbursable costs mandated by the state, reimbursement to local agencies for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

STATEMENT OF SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS

CDSS has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

STATEMENT OF POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

The CDSS is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

SMALL BUSINESS IMPACT STATEMENT

CDSS has determined that there is no impact on small businesses as a result of filing these regulations because these regulations are only applicable to state and county agencies.

ASSESSMENT OF JOB CREATION OR ELIMINATION

The adoption of the proposed amendments will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

STATEMENT OF EFFECT ON HOUSING COSTS

The proposed regulatory action will have no effect on housing costs.

STATEMENT OF ALTERNATIVES CONSIDERED

CDSS must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of CDSS would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed action.

AUTHORITY AND REFERENCE CITATIONS

CDSS adopts these regulations under the authority granted in Welfare and Institutions Code Sections 10553, 10554, and 12300(b). Subject regulations implement and make specific Welfare and Institutions Code Sections 12300(b), 12301.1 and 12301.21.

CDSS REPRESENTATIVE REGARDING RULEMAKING PROCESS OF THE PROPOSED REGULATION

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EMERGENCY STATEMENT

These regulations are to be adopted on an emergency basis. In order to allow interested persons an opportunity to submit statements or arguments concerning these regulations, they will be considered at public hearing in accordance with Government Code Section 11346.4.